

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v.-

MICHAEL ANNUCCI,
a/k/a "Mickey Annucci," and
FRANK PROSCIA,
a/k/a "Frankie Proscia,"

Defendants.

INDICTMENT *RCD*

S2 06 Cr. 982 (BSJ)

COUNT ONE

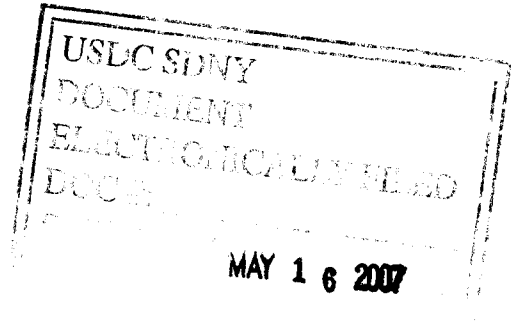
(Conspiracy)

The Grand Jury charges:

RELEVANT ENTITIES AND BACKGROUND

1. At all times relevant to this Indictment, the United Brotherhood of Carpenters and Joiners (the "U.B.C.J.") was a national labor union that represented skilled workers on construction sites. In New York City, the U.B.C.J. has approximately 21,000 members and is divided into approximately eleven locals within the five boroughs.

2. The District Council of New York City and Vicinity of the U.B.C.J. (the "District Council") is the administrative body that oversees the New York City locals of the U.B.C.J. The District Council is located in Manhattan. On behalf of its locals, the District Council has entered into numerous contracts, or collective bargaining agreements ("CBAs"), with various construction contractors and associations of construction



contractors who operate at jobsites in the five boroughs of New York City.

3. The CBAs govern many aspects of the relationship between individual contractors and individual members of the U.B.C.J. who are employed by such contractors as carpenters at jobsites within New York City. Among other things, CBAs obligate that the contractor pay all of its workers at an hourly rate specified in the CBA and make contributions for each hour worked to the union benefit funds (the "District Council Benefit Funds"). The District Council Benefit Funds, which are covered by the laws governing Employee Retirement Income Security Act ("ERISA") plans, provide life insurance, hospitalization, medical care, pension and vacation benefits to union members. The CBAs also require that signatory contractors employ only union members to perform the specified construction work.

4. Collective bargaining agreements generally empower the union to appoint a "shop steward" to each job. Although shop stewards work at the jobsite with the other rank-and-file union members, they are also union fiduciaries. The shop steward's principal duty is to be the daily "eyes and ears" of the union and to report a contractor's violations of the collective bargaining agreement. The shop steward is required to submit weekly reports, called "shop steward reports," to the union office setting forth the hours worked by each of the union's

members assigned to the jobsite. Thus, the shop steward is required to observe the number of hours worked at the jobsite by the union members in order to report the carpenter-hours accurately each week.

5. At all times relevant to this Indictment, L&D Installers, Inc. ("L&D") was a furniture installation and construction contractor that operated in New York City and the vicinity. L&D was a party to a CBA with the District Council of the U.B.C.J. L&D's offices were located in New Jersey.

THE SCHEME TO DEFRAUD

6. From in or about July 2001 through in or about June 2006, MICHAEL ANNUCCI, a/k/a "Mickey Annucci," and FRANK PROSCIA, a/k/a "Frankie Proscia," the defendants, and others known and unknown, conspired to defraud the District Council and the District Council Benefit Funds by, among other things, submitting false shop steward reports that underreported the hours worked by carpenters for L&D and otherwise aiding and abetting L&D's violation of its CBA with the District Council.

THE CONSPIRACY

7. From in or about July 2001 up to and including in or about June 2006, in the Southern District of New York and elsewhere, MICHAEL ANNUCCI, a/k/a "Mickey Annucci," and FRANK PROSCIA, a/k/a "Frankie Proscia," the defendants, and others known and unknown, unlawfully, willfully, and knowingly did

combine, conspire, confederate, and agree together and with each other to commit offenses against the United States, to wit, to violate Title 18, United States Code, Section 664, and Title 18, United States Code, Section 1343.

Objects of the Conspiracy

8. It was a part and object of the conspiracy that MICHAEL ANNUCCI, a/k/a "Mickey Annucci," and FRANK PROSCIA, a/k/a "Frankie Proscia," the defendants, and others known and unknown, unlawfully, willfully, and knowingly would and did embezzle, steal, abstract, and convert to their own use, and to the use of another, moneys, funds, securities, premiums, credits, property, and other assets of "an employee welfare benefit plan or employee pension benefit plan," as that term is defined in Title 18, United States Code, Section 664, and of funds connected therewith, namely employer contributions owed to the welfare and pension benefit plans of the District Council Benefit Funds, in violation of Title 18, United States Code, Section 664.

9. It was further a part and object of the conspiracy that MICHAEL ANNUCCI, a/k/a "Mickey Annucci," and FRANK PROSCIA, a/k/a "Frankie Proscia," the defendants, and others known and unknown, unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, did transmit and cause

to be transmitted by means of wire, in interstate commerce, writings, signs, signals, pictures and sounds for the purpose of executing such scheme and artifice, in violation Title 18, United States Code, Section 1343.

Overt Acts in Furtherance of the Conspiracy

10. In furtherance of the conspiracy and to effect the illegal objects thereof, MICHAEL ANNUCCI, a/k/a "Mickey Annucci," and FRANK PROSCIA, a/k/a "Frankie Proscia," the defendants, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about May 31, 2005, a co-conspirator not named herein faxed a weekly timesheet from L&D's jobsite at 11 Madison Avenue in Manhattan, to L&D's offices in New Jersey, so that the owner(s) of L&D could determine which carpenters' names and hours would be omitted from ANNUCCI's shop steward report for the week in question.

b. On or about June 2, 2005, ANNUCCI, while acting as the shop steward assigned to L&D's jobsite at 11 Madison Avenue in Manhattan, signed and submitted a false shop steward report to union offices located in Manhattan.

c. On or about February 16, 2006, PROSCIA, while acting as the shop steward assigned to L&D's jobsite at 11 Madison Avenue in Manhattan, signed and submitted a false shop

steward report to union offices located in Manhattan.

d. On or about March 8, 2006, PROSCIA, while acting as the shop steward assigned to L&D's jobsite at 11 Madison Avenue in Manhattan, signed and submitted a false shop steward report to union offices located in Manhattan.

(Title 18, United States Code, Section 371.)

COUNT TWO

(Employee Benefit Plan Embezzlement)

The Grand Jury further charges:

11. Paragraphs 1 through 10 of this Indictment are repeated and realleged and incorporated by reference as though fully set forth herein.

12. From in or about July 2001, up through and including in or about June 2006, in the Southern District of New York and elsewhere, MICHAEL ANNUCCI, a/k/a "Mickey Annucci," and FRANK PROSCIA, a/k/a "Frankie Proscia," the defendants, and others known and unknown, unlawfully, willfully, and knowingly did embezzle, steal, abstract, and convert to their own use, and to the use of another, moneys, funds, securities, premiums, credits, property, and other assets of "an employee welfare benefit plan or employee pension benefit plan," as that term is defined in Title 18, United States Code, Section 664, and of a fund connected therewith, namely employer contributions owed to the welfare and pension benefit plans of the District Council Benefit Funds, to wit, ANNUCCI and PROSCIA participated in a

scheme whereby each, while serving as shop steward at L&D's jobsite at at 11 Madison Avenue in Manhattan, submitted false shop steward reports that underreported the hours worked by carpenters for L&D, thereby aiding and abetting L&D's violations of the terms of the collective bargaining agreement between L&D and the U.B.C.J. and L&D's evasion of contributions to the District Council Benefit Funds.

(Title 18, United States Code, Sections 664 and 2.)

COUNT THREE

(Wire Fraud)

The Grand Jury further charges:

13. Paragraphs 1 through 10 of this Indictment are repeated and realleged and incorporated by reference as though fully set forth herein.

14. From in or about July 2001, through in or about June 2006, in the Southern District of New York and elsewhere, MICHAEL ANNUCCI a/k/a "Mickey Annucci," and FRANK PROSCIA, a/k/a "Frankie Proscia," the defendants, and others known and unknown, unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, did transmit and cause to be transmitted by means of wire, in interstate commerce, writings, signs, signals, pictures and sounds for the purpose of executing such scheme and artifice, to wit, ANNUCCI and PROSCIA

engaged in L&D's fraudulent scheme to defraud the District Council Benefit Funds and thereby caused and aided or abetted wire transmissions between New York and New Jersey in furtherance of that scheme, including (i) the wire transfer of timesheets from the 11 Madison jobsite so that the owner(s) of L&D could determine which carpenters' names and hours appearing on those timesheets would be omitted from ANNUCCI's and PROSCIA's respective weekly shop steward reports, and (ii) the wire transfer of fraudulent remittance reports from L&D to the District Council Benefit Funds.

(Title 18, United States Code, Section 1343 and 2).

COUNT FOUR

(Unlawful Acceptance of Payments by Labor Representative)


The Grand Jury further charges:

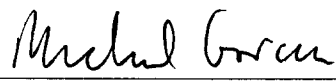
15. Paragraphs 1 through 10 of this Indictment are repeated and realleged and incorporated by reference as though fully set forth herein.

16. From in or about July 2001, up through and including in or about February 2006, in the Southern District of New York and elsewhere, MICHAEL ANNUCCI a/k/a "Mickey Annucci," the defendant, being a representative of employees who were employed in an industry affecting commerce, to wit, members of the U.B.C.J. who worked for a construction contractor, unlawfully, willfully, and knowingly did receive and accept, and agree to receive and accept, a payment, loan, and delivery of money and other thing of value, from an employer and persons

acting in the interest of such an employer, to wit, ANNUCCI, while acting as a shop steward for the U.B.C.J. at a jobsite at 11 Madison Avenue, New York, New York, received payments of more than \$10,000 in "wages" for hours that he never worked and to which he was not entitled, from a contractor that had signed a collective bargaining agreement with the U.B.C.J. and was doing work at the jobsite.

(Title 29, United States Code, 186(a)(1), (b)(1) and (d)(2).)


FOREPERSON


MICHAEL J. GARCIA
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

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(18 U.S.C. §§ 371, 664, 1343 & 2)

MICHAEL J. GARCIA

United States Attorney

A TRUE BILL

Andrew Olyard
Foreperson.

5-16-07 Filed Indictment. Under Seal, A/W issued.

Pitman
U.S.M.S.